

Exhibit A

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§1331 and 1343(a)(4) because it arises under laws of the United States and seeks redress for violations of civil rights under the FMLA and the ADA.

3. This Court may properly maintain personal jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction in order to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. §1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

5. Plaintiff filed a Charge of discrimination and retaliation with the Equal Employment Opportunity Commission ("EEOC") and also dual-filed said charge with the Pennsylvania Human Relations Commission ("PHRC"). Plaintiff has properly exhausted her administrative proceedings before initiating this action by timely filing and dual-filing her Charge with the EEOC and PHRC, and by filing the instant lawsuit within 90 days of receiving a right-to-sue letter from the EEOC.

PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult individual, with an address as set forth in the caption.

8. Defendant Marmaxx Corporation is a corporation that owns and operations numerous off-price retail stores selling apparel and home fashions.

9. At all times relevant herein, Defendant acted by and through its agents, servants and/or employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

FACTUAL BACKGROUND

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff was employed with Defendant from approximately mid-March 2016 through September 17, 2017.

12. At all relevant times herein, Plaintiff was employed with Defendant as an Assistant Manager working under a general/store manager, a district manager, and a regional manager.

13. At the time of Plaintiff's involuntary separation on or about September 7, 2017, Plaintiff was primarily supervised by District Manager - Paula France, Store Manager - Lanetta Mallard, and Regional Manager – Celine (last name unknown at this time).

14. During Plaintiff's employment with Defendant, she performed her job duties in an exceptional manner and had no disciplinary record.

15. On or about May 29, 2017, Plaintiff was involved in a motor vehicle accident wherein Plaintiff suffered serious head and shoulder injuries (for which she still treats) – these conditions qualify as disabilities under the ADA.

16. Plaintiff's aforesaid health conditions, at times, limits her ability to perform some daily life activities, including but not limited to seeing, driving, lifting, performing manual labor, working, walking, standing and concentrating.

17. Despite Plaintiff's aforementioned disabilities and limitations, she was a dedicated and hard-working employee for Defendant who was able to perform the duties of her job well; however, Plaintiff did require reasonable medical accommodations at times (as discussed below).

18. As a result of Plaintiff's May 29 accident and injuries, Plaintiff would on occasion require intermittent time off to treat and care for her conditions, as well as time off when she was experiencing flare-ups related to her conditions. Therefore, in approximately June/July of 2017, Plaintiff sought and was approved for intermittent medical leave (as an accommodation and under the FMLA).

19. In addition to intermittent time off, Plaintiff's also requested medical accommodations including but not limited to schedule adjustments, lifting accommodations and the ability to take periodic (and infrequent) breaks as needed.

20. While all of Plaintiff's requested accommodations were more than reasonable – and Plaintiff used her FMLA time sparingly - Defendant's management, including but not limited to France would subject Plaintiff to discriminatory comments and antagonism about her need for reasonable accommodations and her health conditions, including but not limited to repeatedly forcing Plaintiff to work outside of the medical restrictions her doctors had placed on Plaintiff and expressing hostility towards Plaintiff's need for reasonable accommodations.

21. In addition, managers of Defendant became very frustrated with employees taking or seeking FMLA, and supervisory employees including but not limited to France would make

very derogatory comments about people abusing FMLA, using too much FMLA, and implying that employees were taking FMLA unnecessarily.

22. Shortly before her termination, Plaintiff expressed several concerns to Defendant's management, including but not limited to France, regarding the discriminatory treatment and antagonism she was receiving based on her actual/perceived disabilities and/or her need for/use of reasonable medical accommodations, including that she was concerned that her medical restrictions were not being honored by Defendant and she was being forced to violate those medical restrictions. However, Defendant's management never properly investigated or resolved Plaintiff's aforesaid concerns of discriminatory mistreatment and this mistreatment of Plaintiff continued.

23. On or about September 17, 2017, shortly after expressing her concerns of discriminatory treatment and immediately following Plaintiff taking several days of FMLA leave, Plaintiff was informed that she was being terminated from her employment with Defendant.

24. Plaintiff was terminated from Defendant for allegedly using another employee's code on the register. However, this practice was extremely common for managers and assistant store managers to do when the store was busy, and Plaintiff was singled out for termination after being subjected to discriminatory treatment in relation to her disabilities and need for reasonable accommodations and expressing concerns that her medical restrictions were not being honored.

25. Plaintiff believes and therefore avers that she was subjected to a hostile work environment and terminated as a result of her actual/perceived/record of disabilities, in retaliation for requesting accommodations (including FMLA leave), and/or in retaliation for

expressing concerns about discriminatory mistreatment being exhibited by Defendant's management.

First Cause of Action
Violations of the Americans with Disabilities Act, as Amended ("ADAAA")
([1] Actual/Perceived/Record of Disability Discrimination; [2] Retaliation; [3] Failure to Accommodate; [4] Hostile Work Environment)

26. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

27. Plaintiff suffered from qualifying health conditions under the ADA (as amended) which affected her ability (at times) to perform some daily life activities, as described *supra*.

28. Plaintiff requested reasonable accommodations from Defendant, including but not limited to intermittent time off, lifting accommodations, the ability to take periodic (but infrequent) breaks, and scheduling adjustments.

29. In response to Plaintiff's health conditions and need for reasonable accommodations, Plaintiff was subjected to hostility and animosity by Defendant's management through discriminatory comments, disparate treatment, and pretextual admonishment.

30. Plaintiff expressed concerns to Defendant's management regarding the discriminatory mistreatment that she was being subjected to; however, her concerns were never properly addressed or resolved in any meaningful way.

31. Plaintiff was eventually terminated from her employment with Defendant for completely pretextual reasons.

32. Plaintiff believes and therefore avers that Defendant discriminated against Plaintiff by subjecting her to a hostile work environment, issuing her pretextual discipline, and ultimately terminating her employment because of: (1) her known and/or perceived health problems; (2) her record of impairment; and/or (3) her complaints of discrimination.

33. These actions as aforesaid constitute violations of the ADAAA.

Second Cause of Action
Violations of the Family and Medical Leave Act ("FMLA")
(Interference and Retaliation)

34. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

35. Plaintiff was an eligible employee under the definitional terms of the FMLA, 29 U.S.C. § 2611(a)(i)(ii).

36. Plaintiff requested leave from Defendant, her employer, with whom she had been employed for at least twelve months pursuant to the requirements of 29 U.S.C.A § 2611(2)(i).

37. Plaintiff had at least 1,250 hours of service with the Defendant during her last full year of employment.

38. Defendant is engaged in an industry affecting commerce and employs fifty (50) or more employees for each working day during each of the twenty (20) or more calendar work weeks in the current or proceeding calendar year, pursuant to 29 U.S.C.A § 2611(4)(A)(i).

39. Plaintiff was entitled to receive leave pursuant to 29 U.S.C.A § 2612 (a)(1) for a total of twelve (12) work weeks of leave on a block or intermittent basis.

40. Defendant committed interference and retaliation violations of the FMLA by: (1) disciplining and terminating Plaintiff for requesting and/or exercising her FMLA rights and/or for taking FMLA-qualifying leave; (2) by considering Plaintiff's FMLA leave needs in making the decision to issue her discipline and/or terminate her; (3) preventing Plaintiff from utilizing her approved leave as needed; and (4) disciplining and/or terminating Plaintiff to prevent her from taking further FMLA-qualifying leave in the future.

41. These actions as aforesaid constitute violations of the FMLA.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to be prohibited from continuing to maintain its illegal policy, practice or custom of discriminating/retaliating against employees and are to be ordered to promulgate an effective policy against such unlawful acts and to adhere thereto;

B. Defendant is to compensate Plaintiff, reimburse Plaintiff and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to past lost earnings, future lost earnings, salary, pay increases, bonuses, medical and other benefits, training, promotions, pension, and seniority. Plaintiff should be accorded those benefits illegally withheld from the date she first suffered retaliation/discrimination at the hands of Defendant until the date of verdict;

C. Plaintiff is to be awarded liquidated and/or punitive damages, as permitted by applicable law(s) alleged asserted herein, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

D. Plaintiff is to be accorded any and all other equitable and legal relief as the Court deems just, proper and appropriate including for emotional distress;

E. Plaintiff is to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable federal and state law;

F. Any verdict in favor of Plaintiff is to be molded by the Court to maximize the financial recovery available to Plaintiff in light of the caps on certain damages set forth in applicable federal law; and

G. Plaintiff's claims are to receive a trial by jury to the extent allowed by applicable law. Plaintiff has also endorsed this demand on the caption of this Complaint in accordance with Federal Rule of Civil Procedure 38(b).

Respectfully submitted,

KARPF, KARPf & CERUTTI, P.C.

By: 

Ari R. Karpf, Esq.
3331 Street Road
Two Greenwood Square
Building 2, Ste. 128
Bensalem, PA 19020
(215) 639-0801

Dated: May 2, 2018

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Tara Johns

CIVIL ACTION

v.


Marmaxx Operation Corp. d/b/a TJ Maxx

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

5/2/2018		Plaintiff
Date	Attorney-at-law	Attorney for
(215) 639-0801	(215) 639-4970	akarpf@karpf-law.com
Telephone	FAX Number	E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1015 Ruby Circle, Gilbertsville, PA 19525

Address of Defendant: 225 E. Swedesford Road, Wayne, PA 19087

Place of Accident, Incident or Transaction: Defendant's place of business

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Ari R. Karpf

, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 5/2/2018

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

NOTE: A trial de novo will be a trial by jury only if there has been compliance with P.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/2/2018

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

CIV. 609 (5/2012)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOHNS, TARA

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Karpf, Karpf & Cerutti, P.C.; 3331 Street Road, Two Greenwood Square,
Suite 128, Bensalem, PA 19020; (215) 639-0801; akarpf@karpf-law.com

DEFENDANTS

MARMAXX OPERATION CORP. d/b/a TJ MAXX

County of Residence of First Listed Defendant Montgomery
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party) ☒
- 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III) ☐

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	Habeas Corpus:	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 463 Alien Detainee			<input type="checkbox"/> 890 Other Statutory Actions
		<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 891 Agricultural Acts
		<input type="checkbox"/> 530 General	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 895 Freedom of Information Act
		Other:		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
		<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
		<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 555 Prison Condition			
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights				
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting				
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment				
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations				
<input type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment				
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other				
	<input type="checkbox"/> 448 Education				

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
ADA (42USC12101); FMLA (29USC2601)Brief description of cause:
Violations of the ADA, FMLA and the PHRA.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5/2/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

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